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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,404

05/03/2004

Alan Sturt

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23688

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09/29/2006

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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,404

Applicant(s)

STURT ET AL.

Examiner

Corey N. Skurdal

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/03/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Claim Objections

1. Claims 4 and 12 are objected to because of the following informalities: each claim, line 2, recites the phrase "said apparatus comprise plastic"; the phrase should read, "said apparatus comprises plastic". Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 and 10, the limitation "a device mounting apparatus suitable for attaching and securing items" in the preamble and the later set forth "storage receptacles, items, and brackets having located thereon at least one prong" in the body render the claim indefinite because it is unclear if Applicant is claiming the triangular mounting unit by itself or whether the "storage receptacles, items and brackets" are being claimed in combination. The following rejections are based on the assumption that Applicant is claiming both the mounting unit with mounting cavities, and the storage receptacles, items, and brackets associated therewith, as they have both been positively recited.

In claims 1 and 10, the limitation "storage receptacles, items and brackets having located thereon at least one prong suitable for inserting into said at least one mounting cavity" renders the claim indefinite because it is unclear how many of these storage

Art Unit: 3727

receptacles, items, and brackets Applicant is attempting to claim. Furthermore, the claims also recite that "at least one of a desired container, item and bracket" can be secured to the mounting apparatus; this phrase implies that only one of the selected container, item, or bracket is actually being claimed. The following rejections are based on the assumption that Applicant is only claiming one of a container, item, or bracket with at least one prong for mounting to the said cavity.

In claim 3 the limitation "wherein there is a mounting cavity on one face of said triangular mounting unit" renders the claim indefinite because it is unclear how the mounting cavity recited in claim 1 and the mounting cavity now recited in claim 3 are related. In particular, it is unclear whether Applicant is attempting to claim a second mounting cavity on a different face or whether the mounting cavity recited in claims (1 and 3) is the same. The following rejections are based on the assumption that mounting cavities recited in claims 1 and 3 are in fact the same.

In claim 9, the limitation "wherein there is a mounting loop on one face of said triangular unit and a hook on another face" renders the claim indefinite because it is unclear how the mounting loop and hook are related to the mounting cavity of claim 1. In particular it is unclear whether the mounting loop is to be considered to form a mounting cavity. The following rejections are based on the assumption that the mounting cavity is to be formed from interior of the mounting loop.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 6-8, 10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. (US 4,568,117) in view of Ney et al. (US 5,879,041).

Regarding claims 1-2, and 10-11 McElfish et al. disclose a device mounting apparatus suitable for attaching and securing items and receptacles having various sizes and shapes in a vehicle comprising in combination: a triangular mounting unit (18) rotatably movable around a center pivot pin (46), said triangular mounting unit being installed in an interior surface (10); a first side surface at 38 complimentary to said interior surface (Figure 1); a mounting cavity (74) on the second side surface; and a third side having a mounting cavity (66). McElfish et al. does not have storage receptacles, items, or brackets with prongs suitable for inserting into the mounting cavity of the triangular mounting unit, thereby allowing secure attachment of at least one of a desired container, item, or bracket in a vehicle. However, Ney et al. teaches an article holder (10), for use in a vehicle cup holder, on which multiple prongs (30 and 22) can be secured in a cup holder mounting cavity (12). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to use the beverage container with prongs of Ney et al. with the device of McElfish et al. in order to hold various receptacles such larger cups and beverage containers.

Regarding claim 6 and 14, the modified McElfish et al. device discloses the claimed apparatus wherein the apparatus opens (Figure 2) and closes (Figure 1) around a center pivot pin (46).

Regarding claims 7-8, and 15-16, either of the cavities or prong of the modified McElfish et al. device can be considered to be oriented either horizontally or vertically, depending on how you look at the figures.

5. Claims 3, 9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. in view of Ney et al. as applied to claims 1 and 10 above, and further in view of Bieck et al. (US 5,839,711).

Regarding claims 3 and 17, the modified McElfish device discloses the invention substantially as claimed but does not have a hook on a face of the triangular unit. However, Bieck et al. discloses a beverage holder (10) with hook members 20 for securing a beverage in place. Therefore it would have been obvious to one skilled in the art at the time of invention to make the cup holder of McElfish with hook members in order to more securely hold a cup or beverage.

Regarding claim 9, the modified McElfish device discloses the claimed invention wherein hook members (20 of Bieck et al.) are on one face of the triangular unit, and mounting loops (84 Figure 3, also seen at the center of Figure 2) formed from the lip of the coin holder, effectively satisfying the claims.

6. Claims 4-5, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. in view of Ney et al., as applied to claims 1 and 10 above, and further in view of Wildey et al. (US 5,860,630). The modified McElfish device

Art Unit: 3727

discloses the claimed invention but does not specifically state the material being a plastic. However, Wildey et al. teaches a container recesses into a vehicle console (18) with various mounting cavities, the device being made from ABS plastic (col. 4 lines 4). Therefore it would have been obvious to one skilled in the art at the time of invention to make the mounting device of McElfish from ABS plastic, effectively satisfying the claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS
9/19/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER